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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,996	03/08/2001	Masahiro Hinami	01-201	5891

7590 02/21/2007  
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EXAMINER
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SHAH, MILAP

ART UNIT	PAPER NUMBER
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3714

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/21/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/801,996	<b>Applicant(s)</b> HINAMI, MASAHIRO	
	<b>Examiner</b> Milap Shah	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,7 and 8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,7 and 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 21, 2006 has been entered.

The Examiner acknowledges that claims 1, 2, 4, 7, & 8 were amended, claim 3 was canceled and no new claims were added. Therefore, claims 1, 2, 4, 7, & 8 are currently pending.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 7, & 8 rejected under 35 U.S.C. 102(b) as being anticipated by Jagged Alliance 2: Instruction Manual (hereafter “JA2”) (JA2 has an earliest release date of March 20, 1998).

**Claims 1, 7, & 8:** JA2 discloses the same invention including a strategy and role-playing game having a combat or war simulation theme in which characters within the game fight in both short-range and long-range circumstances. JA2 is a game for a personal computer, thus, it is considered to include a first controller or second controller (i.e. processes within the CPU of a personal computer) to control operation of a first generator or second generator (i.e. processes within a GPU of a personal computer), respectively, in order to generate game animations corresponding to

the status of the game, such as in a normal state (no combat) and a combat state. Thus, it can be seen that a first controller controls a first generator that is responsible for generating display images or animation corresponding to the normal state, and the second controller controls a second generator that is responsible for generating display images or animation corresponding to the combat state in real time in response to "operation data" (i.e. game operational inputs by a player). The normal state is interpreted as the state in which no combat is taking place and the overall animation of the battlefield or "plurality of areas" is shown with both players combat elements (page 38). The combat state is considered the state in which one of the player's elements fights against one of the opponent's elements (page 4 or 5). The "selector" is considered an inherent process within the central processing unit of a personal computer since it must receive and process all game data and perform steps to determine if the current state of the game needs to be changed from a normal state to a combat state or vice versa (via checking a preset condition).

*See pages 27-32, 38-41.*

Referring to specific short-range and/or long-range circumstances within JA2, it can be seen that in JA2, if an opponent is close to (in an adjacent area) a player's combat element may engage in hand-to-hand combat (page 29), such as this hand-to-hand combat is considered short-range circumstances. The opposite occurs if the opponent is not within a close range, such that long-range circumstances or firing weapons are engaged to attack an opponent (pages 27-28). The "plurality of areas" and being in an "adjacent" area is considered in any game which is played on a battlefield or map of any kind, since any conceivable size "area" can be considered part of the grid of areas, such as each pixel on a computer screen or even an entire country on a world map. Thus, short-range and long-range circumstances with respect to a plurality of areas is are not considered patentability distinct as these features are considered present in most war/attack/battle/combat

themed games, such that if an opponent is not within a certain range (i.e. in an adjacent area), short-range circumstances is simply not possible, thus the images will not be generated nor displayed. For example, when an opponent is two “areas” of a plurality of areas away (i.e. not in an adjacent area) from a player’s combat element, a “knife” attack would have no effect. JA2 is considered to generate the same “displayed state images” as those in Applicant’s claim, since JA2 produces the animations for each state and displays the images to the player.

The above explanation is considered to explain both a method and an apparatus for carrying out the method, such that each limitation in the method claim is disclosed by JA2. Thus, JA2 is considered to anticipate applicant’s claimed invention. Regarding claim 8, JA2 is a computer game, and therefore is recorded on a computer-readable medium.

The Examiner would also like to point out that Applicant’s current claim has no clause or functional language for not specifically stopping a player’s combat element to use long-range circumstances to attack the opponent, even though the opponent is in an adjacent area in which short-range circumstances would suffice.

**Claim 2:** As discussed above, the preset condition is considered the operation of a human player to operate a game character or player element to engage or attack an opponent within the game. This is how JA2 operates, such that a human player, playing the game on a personal computer, operates their player elements to coordinate an attack on an opponent (pages 41-43). With respect to “wherein the selector sends the operation data to the second controller when the operation data satisfies the preset condition”, see above explanation of claim 1, where this limitation appears to be equivalent to the “a selector...” limitation of claim 1.

*Claim Rejections - 35 USC § 103*

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over JA2, as applied to claims 1-3, 7 & 8, where applicable, in view of Morihira (U.S. Patent No. 6,093,105).

**Claim 4:** JA2 discloses the invention substantially as claimed except for distance detection between player elements and opponent elements. The Examiner believes that a determination of distances within JA2 is inherent and necessary to determine if a player's hand-to-hand combat, for instance, is successful, that is, if the hand-to-hand combat was within a distance or range of the opponent to be successful. However, be that as it may, Morihira explicitly teaches detecting distances between two opponent elements in a gaming situation. Morihira, as discussed in the previous action, teaches a distance detector for the purpose of generating an image, which adjusts an enlargement/reduction ratio (zooming ratio) of the window screen (column 3, lines 29-36) when the players are closer or further apart. One would be motivated to add a distance detection operation within JA2 to aid the generators in producing an image with as much detail as possible while keeping the opponents "in view". Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify JA2 with a specific distance detection operation as taught by Morihira in order to display the optimum image, having as much detail as possible, such as a closer image if both opponents are within a shorter distance of each other or a more zoomed out or enlarged image showing less detail, when the players are further apart.

*Response to Arguments*

Applicant's arguments filed September 21, 2006 have been fully considered but they are not persuasive.

The Applicant argues, with respect to claim 1 and each of its dependent claims, that JA2 fails to disclose all of the elements cited in Applicant's independent claim 1 since JA2 discloses "turn-based combat automatically ends when mercenaries go for a couple of turns without spotting a live enemy. The game then switches back to real-time mode." The Applicant asserts, because of this disclosure, that the game is not being executed in "real-time mode" during the combat sequences in JA2. The Examiner respectfully disagrees with the Applicant's interpretation and proposed assertion of JA2. JA2 discloses a combat game, as discussed above in the rejections, in which the Examiner agrees the combat switches to a turn-based combat game at certain points in the game dependent on game play and interaction with enemy characters. However, in accordance with the claimed invention, the Examiner submits that JA2 still generates image data in "real time" as required by the claimed invention. The following is the excerpt from claim 1 that the Examiner believes the Applicant asserts is not in JA2 (no specific excerpt was provided in the arguments): "a second controller for activating the second generator when the operation data is sent to the second controller and controlling the second generator to generate the image data in real time in response to the operation data". The Examiner submits that the Applicant is misinterpreting the excerpt from JA2, since the claimed limitation requires the image data to be processed and generated in real time but makes no indication that the game itself is played in a real time mode, since when playing JA2 when, for example, it's Player A's turn and he decides to strike at Player B using long-range means, at that exact moment in real time (i.e. real physical world time) the image data is processed and generated to show the participants of the game what has happened during Player A's turn. It is understood that the "game time" may not be moving in real-time mode in accordance with the time of day, year, date, etc, that it is in the

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environment of the virtual world, however, the game data is processed in real physical time (real world). It appears the “real-time mode” in the virtual world and the claimed “real time” processing of image data is of different scope. Therefore, the Examiner submits that the Examiner’s broadest reasonable interpretation of the claimed limitation requires only the processing of image data to be in “real time”, which would appear to be the case when playing any game. If data processing while playing a game was not done in real time, results would be along the line of Player A targeting Player B today and the image data not being presented on the display screen of both participants until a later date or time, which would be unacceptable for game play. Therefore, the Examiner submits JA2 properly anticipates the applicant’s claimed invention and that the rejections are maintained herein.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

### *Conclusion*

This is a “Request for Continued Examination” (RCE) of applicant's earlier Application No. 09/801,996. All claims are drawn to the same invention claimed in the earlier prosecution before a RCE was filed and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

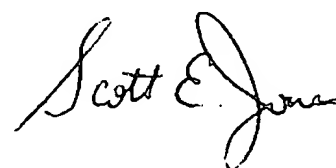


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milap Shah whose telephone number is (571) 272-1723. The examiner can normally be reached on M-F: 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



M.B.S.

**SCOTT JONES**  
**PRIMARY EXAMINER**